

1 XAVIER BECERRA  
2 Attorney General of California  
3 RICHARD J. ROJO  
4 Supervising Deputy Attorney General  
5 MARK A. BROWN  
6 Deputy Attorney General  
7 State Bar No. 143199  
8 300 South Spring Street, Suite 1702  
9 Los Angeles, CA 90013  
Telephone: (213) 897-2145  
Fax: (213) 897-2810  
E-mail: Mark.Brown@doj.ca.gov  
Attorneys for Defendants  
State of California [acting through California  
Highway Patrol] and California Highway Patrol  
Officer Daniel Agee

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12  
13  
14 **LETICIA BARRON,  
15 INDIVIDUALLY AND AS  
16 SUCCESSOR IN INTEREST TO  
MAURICIO BARRON, DECEASED,**  
17 Plaintiff,  
18 v.  
19 **STATE OF CALIFORNIA; DANIEL  
AGEE; AND DOES 1-10,  
20 INCLUSIVE,**

21 Defendants.

22 Case No. 2:17-cv-5394

23 **NOTICE OF REMOVAL UNDER  
28 U.S.C. SECTION 1441 (b)  
(FEDERAL QUESTION  
JURISDICTION); DECLARATION  
OF MARK A. BROWN IN  
SUPPORT THEREOF**

24 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

25 PLEASE TAKE NOTICE that defendant California Highway Patrol Officer

26 Daniel Agee hereby removes to this Court the state action described below under 28  
U.S.C. §§ 1331, 1441 and 1446, reserving any and all rights, objections, defenses  
and exceptions:

1       1. On March 30, 2017, an action was filed in the Superior Court of the State  
2 of California, County of Orange, captioned *Leticia Barron v. State of California, et*  
3 *al., Case No. 30—2017-00911997 – CU-CR-CJC* (the State Action). True and  
4 correct copies of Proof of Service of Summons and Complaint are attached as  
5 Exhibit A. The State of California was the only named defendant.

6       2. The original Complaint in the state action alleges causes of action for: (1)  
7 42 U.S.C. Section 1983 [unreasonable search and seizure]; (2) 42 U.S.C. Section  
8 1983 [excessive force]; (3) 42 U.S.C. Section 1983 [denial of medical care]; (4) 42  
9 U.S.C. Section 1983 [substantive due process- interference with familial relations];  
10 (5) false arrest/imprisonment; (6) battery; (7) negligence; and (8) violation of Civil  
11 Code section 52.1 [Bane Act]. The civil rights claims are brought against the Doe  
12 officers and the state law claims [false arrest/imprisonment; battery; negligence;  
13 and violation of Civil Code section 52.1] are brought against the Doe officers and  
14 the State of California. The State of California was the only named defendant and  
15 was only named on the state law claims. California Highway Patrol Officer Daniel  
16 Agee was not named as a defendant in the original Complaint. (Exh. A:  
17 Complaint.)

18       3. The State of California filed a demurrer to the original Complaint which  
19 was set to be heard on July 19, 2017, at 1:30 p.m., in Department C31 of the  
20 Orange County Superior Court. On July 3, 2017, plaintiff Leticia Barron (Plaintiff)  
21 filed a First Amended Complaint which named California Highway Patrol Officer  
22 Daniel Agee as a defendant. Officer Agee was named as a defendant on all claims.  
23 True and correct copies of the Summons and First Amended Complaint served on  
24 Officer Agee on July 12, 2017 are attached as Exhibit B.

25       4. After Plaintiff filed the First Amended Complaint, the State of California  
26 took its demurrer off calendar. A Case Management Conference hearing was heard  
27 on July 10, 2017. The State of California filed and served a Case Management  
28 Conference Statement. Plaintiff filed and served a Case Management Conference

1 Statement and an Amended Case Management Conference Statement. The Court  
2 continued the Case Management Conference until August 8, 2017. On July 19,  
3 2017, defendants State of California and Officer Agee filed and served an Answer  
4 to the First Amended Complaint. True and correct copies of the State of  
5 California's Demurrer, State of California's Notice of Taking Demurrer Off  
6 Calendar, State of California's Case Management Statement, Plaintiff's Case  
7 Management Statement, Plaintiff's Amended Case Management Statement, the  
8 State of California's Notice of Posting Jury Fees, and Defendants' Answer to First  
9 Amended Complaint are attached hereto as Exhibit C. This constitutes all  
10 processes, pleadings, and orders delivered to or served on defendants. No further  
11 proceedings have occurred in the state action.

12 5. The first date on which removing defendant California Highway Patrol  
13 Officer Agee received a copy of the Summons and First Amended Complaint in the  
14 State Action was July 12, 2017. This Notice of Removal is therefore timely under  
15 28 U.S.C. § 1446 (b), because it has been filed within 30 days after service of the  
16 summons and complaint.

17 6. The State Action pleads four claims for violation of Plaintiff's civil rights  
18 under 42 U.S.C. section 1983. The State Action is therefore a civil action of which  
19 this Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1333, and which  
20 may be removed to this Court under 28 U.S.C. §§ 1441 (b) and (c). There are  
21 additional state law claims for false arrest/false imprisonment, battery, negligence,  
22 and violation of Civil Code section 52.1 (Bane Act).

23 7. The defendants in the State Action are the State of California, acting by  
24 and through the California Highway Patrol, and California Highway Patrol Officer  
25 Agee. Defendants State of California and Officer Agee consent to the removal of  
26 the State Action to this Court.

27 8. Defendants will give written notice of the filing of this Notice of  
28 Removal to all parties, and will file a copy of this Notice of Removal with the

1 Superior Court of the State of California, County of Los Angeles, as required by 28  
2 U.S.C. § 1446 (d).

3       9. The undersigned, counsel for defendants State of California, acting by  
4 and through the California Highway Patrol, and California Highway Patrol Officer  
5 Daniel Agee, has read the foregoing and signs this Notice of Removal pursuant to  
6 Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446  
7 (a).

8       10. WHEREFORE, defendants State of California, acting by and through the  
9 California Highway Patrol, and California Highway Patrol Officer Daniel Agee  
10 pray that Action No. 30—2017-00911997-CU-CR-CJC, now pending in the  
11 Superior Court for the State of California, County of Orange, be removed to this  
12 Court.

13      Dated: July 20, 2017  
14

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
RICHARD J. ROJO  
Supervising Deputy Attorney General

/s/ Mark A. Brown  
MARK A. BROWN  
Deputy Attorney General  
Attorneys for defendants State of  
California [acting through California  
Highway Patrol] and California  
Highway Patrol Officer Daniel Agee

## DECLARATION OF MARK A. BROWN

I, Mark A. Brown, declare as follows:

1. I am an attorney-at-law, duly authorized to practice before all courts of the State of California and the United States District Court for the Central District of California. I am employed by the Office of the California Attorney General as a Deputy Attorney General. As a Deputy Attorney General, I am responsible for the handling of this action. The facts and matters stated herein are within my personal knowledge and if called as a witness I could and would competently testify thereto.

2. This is a civil action of which this Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1333, because the complaint raises claims for violations of civil rights under the Constitution and laws of the United States.

3. Removing defendant California Highway Patrol Officer Daniel Agee was not named as a defendant in the original complaint. The first date on which removing defendant Officer Agee received a copy of the summons and amended complaint in the state action was July 12, 2017. This Notice of Removal is therefore timely under 28 U.S.C. § 1446 (b), because it has been filed within 30 days after service of the summons and complaint.

4. The defendants in the state action are the State of California, acting by and through the California Highway Patrol, and California Highway Patrol Officer Daniel Agee. Defendants State of California and Officer Agee consent to the removal of the state action to this Court.

5. Defendants will give written notice of the filing of this Notice of Removal to all parties, and will file a copy of this Notice of Removal with the Superior Court of the State of California, County of Orange, as required by 28 U.S.C. § 1446 (d).

6. Attached as Exhibit A is a true and correct copy of the Summons and Complaint filed March 30, 2017, in the Superior Court of the State of California,

1 County of Orange, captioned: *Leticia Barron v. State of California, et al.*, Case No.  
2 30-2017-0091197-CU-CR-CJC.

3       7. Attached as Exhibit B is a true and correct copy of the Summons and  
4 First Amended Complaint, in the Superior Court of the State of California, County  
5 of Orange, captioned: *Leticia Barron v. State of California, et al.*, Case No. 30-  
6 2017-0091197-CU-CR-CJC, served on Officer Agee on July 12, 2017.

7       8. Attached as Exhibit C are true and correct copies of the following  
8 documents: State of California's Demurrer to the Complaint; State of California's  
9 Notice of Taking Demurrer Off Calendar; State of California's Case Management  
10 Conference Statement; Plaintiff's Case Management Conference Statement;  
11 Plaintiff's Amended Case Management Conference Statement; and State of  
12 California and Officer Agee's Answer to the First Amended Complaint.

13       Executed this 20<sup>th</sup> day of July, 2017, at Los Angeles, California. I declare  
14 under penalty of perjury under the laws of the State of California and the United  
15 States of America that the foregoing is true and correct.

16

17

/s/ Mark A. Brown

18

19

20

21

22

23

24

25

26

27

28